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10/064,212	06/21/2002	Tzueng-Yau Lin	MTKP0002USA	2832

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EXAMINER

GANDHI, DIPAKKUMAR B

ART UNIT PAPER NUMBER

2133

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/064,212

Applicant(s)

LIN, TZUENG-YAU

Examiner

Dipakkumar Gandhi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 2-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 6, 8, 9, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayskiy (US 6,278,387 B1) in view of Lerner et al. (US 6,169,802 B1).

As per claim 1, Rayskiy teaches a method of reproducing a media file with a control apparatus, the media file comprising a plurality of frames, each frame having an optional error check field, and an audio data field for storing encoded audio sample (col. 2, lines 25-26, lines 65-67, col. 4, lines 44-45, Rayskiy).

However Rayskiy does not explicitly teach the control apparatus including a parameter and the method comprising: if the error check field of the frame exists, using the error check field to verify integrity of the frame; if the integrity of the frame is correct, decoding the audio sample in the audio data field; if the integrity of the frame is unable to be confirmed to be correct and the parameter indicates that the error check field no longer needs to be used to verify the integrity of the frame, decoding the audio sample in the audio data field; if the integrity of frame is unable to be confirmed to be correct and the parameter indicates that the error check field is to be used to verify the integrity of the frame, storing the audio data field for later reference without decoding the audio sample stored in the audio data field.

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Lerner et al. in an analogous art teach that the decoder 213 coupled to the processor then operates to detect and correct errors in the encrypted message creating a decoded message that is coupled to the messaging device cryptographic engine for decryption, creating the current received decrypted message that is further coupled to the processor for message integrity testing using a message checksum, that is computed and compared with a checksum 614 extracted from the current received encrypted message after decryption. If the computed and extracted checksums are different, step 614 fails and step 616 checks to see in the decryption failure flag is true. If the decryption failure flag is false, step 618 sets the session key  $k_{sub.s}$  to the message key  $k_{sub.n}$  from the last message successfully received and decrypted without errors. In the case of this being the first message received since programming of the personal messaging device 200, the session key  $k_{sub.s}$  remains set to the initial key  $k_{sub.initial}$ . The decryption failure flag is set to true 620, and steps 610, 612, 614 and 616 are repeated as necessary. If the message is successfully decrypted and the checksum compares with the received message checksum, the message is saved for presentation 624 and the next message key  $k_{sub.n+1}$  (which will become a next messaging device session key) is generated 626 and stored, and the correct receipt, decoding, and decryption of the message is acknowledged (ACKed) 628 (figure 2, col. 10, lines 27-51, Lerner et al.).

Lerner et al. also teaches acknowledging an incorrect reception, decoding or decryption of the encrypted message when the checksum within the current received decrypted message did not match the checksum calculated from the second information content of the current received decrypted message (col. 14, lines 14-19, Lerner et al.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rayskiy's patent with the teachings of Lerner et al. by including additionally the control apparatus including a parameter and the method comprising: if the error check field of the frame exists, using the error check field to verify integrity of the frame; if the integrity of the frame is correct, decoding the audio sample in the audio data field; if the integrity of the frame is unable to be confirmed to be correct and the parameter indicates that the error check field no longer needs to be used to verify the integrity of the frame, decoding the audio sample in the audio data field; if the integrity of frame is unable

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to be confirmed to be correct and the parameter indicates that the error check field is to be used to verify the integrity of the frame, storing the audio data field for later reference without decoding the audio sample stored in the audio data field.

This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that it would provide the opportunity to determine the message integrity using the error check field.

- As per claim 6, Rayskiy and Lerner et al. teach the additional limitations.

Lerner et al. teach that the area of the frame capable of being verified as correct by the control apparatus excludes the error check field (figure 2, col. 10, lines 27-35, Lerner et al.).

- As per claim 8, Rayskiy and Lerner et al. teach the additional limitations.

Rayskiy teaches the method, wherein the control apparatus is implemented by a circuit or an algorithm (figure 1, col. 3, lines 1-2, Rayskiy).

- As per claim 9, Rayskiy and Lerner et al. teach the additional limitations.

Rayskiy teaches an apparatus for decoding and outputting a media file, the media file comprising a plurality of frames (col. 2, lines 25-26, lines 65-67, col. 4, lines 44-45, Rayskiy).

Lerner et al. teach the apparatus comprising: a control apparatus capable of decoding and outputting audio data of the frame if integrity of the audio data of the frame is not verifiable by the control apparatus using an error check field of the frame, and capable of using the error check field of the frame for error checking if the integrity of the audio data of the frame is verifiable by the control apparatus using the error check field of the frame when decoding and outputting the audio data of the frame (figure 2, col. 10, lines 27-51, col. 14, lines 14-19, Lerner et al.).

- As per claim 11, Rayskiy and Lerner et al. teach the additional limitations.

Rayskiy teaches the apparatus, wherein the control apparatus is implemented by a circuit or an algorithm (figure 1, col. 3, lines 1-2, Rayskiy).

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4. Claims 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayskiy (US 6,278,387 B1) Lerner et al. (US 6,169,802 B1) as applied to claim 1 above, and further in view of Wang (US 2002/0133764 A1).

As per claim 7, Rayskiy and Lerner et al. substantially teach the claimed invention described in claim 1 (as rejected above).

However Rayskiy and Lerner et al. do not explicitly teach the specific use of the method wherein the media file is an MP3 file.

Wang in an analogous art teaches that FIG. 2 is a flowchart of the operations performed by the decoder system of FIG. 1 when applied to an MP3 audio data stream (page 2, paragraph 19, Wang).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Rayskiy's patent with the teachings of Wang by including an additional step of using the method wherein the media file is an MP3 file.

This modification would have been obvious to one of ordinary skill in the art, at the time the invention was made, because one of ordinary skill in the art would have recognized that using the method wherein the media file is an MP3 file would provide the opportunity to reduce data loss and reduce corruption of data in digital audio transmission.

- As per claim 10, Rayskiy, Lerner et al. and Wang teach the additional limitations.

Wang teaches the apparatus further comprising a parser for parsing a frame in the MP3 file, a decoder for decoding data within the frame (figure 1, page 2, paragraph 19, Wang) and a buffer for storing audio data of the frame (page 2, paragraph 39, Wang).

#### ***Allowable Subject Matter***

5. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an Examiner's statement of reasons for the indication of allowable subject matter:

The present invention pertains to a method and an apparatus for error checking when playing an MP3 audio file and providing error check protection when recognizable error check fields exist in an MP3 bit-

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stream, and playing the MP3 bit-stream without error checking when recognizable error check fields do not exist in the MP3 bit-stream.

Claim 2 recites features such as "a first predefined constant is used as a destructive factor in calculations determining whether or not to continue using the error check field to verify the integrity of the data within the frame".

The prior arts of record (Lerner et al. US 6,169,802 B1) teach a decoder to detect and correct errors in the encrypted message and message integrity testing using a message checksum. The prior arts, however, do not teach using a first predefined constant as a destructive factor in calculations determining whether or not to continue using the error check field to verify the integrity of the data within the frame. Hence, the prior arts of record do not anticipate nor render obvious claim 2 in view of its base and intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dipakkumar Gandhi whose telephone number is 703-305-7853. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (703)305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dipakkumar Gandhi  
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